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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,032	09/28/2001	Monte J. Rhoads	42390P12320	4834

7590 08/24/2004

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EXAMINER

DU, THUAN N

ART UNIT

PAPER NUMBER

2116

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/967,032	RHOADS, MONTE J.	
	Examiner	Art Unit	
	Thuan N. Du	2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 September 2001.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-25 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 28 September 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/11/02, 3/22/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

1. It is hereby acknowledged that the following papers have been received and placed of record in the file: IDSs (dated 1/11/02 and 3/22/04).
2. Claims 1-25 are presented for examination.

Drawings

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings are required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koji (Japan Publication No. 11-312030).
6. Regarding claims 1, 4, 5, 9 and 13-16, Koji teaches a system comprising:

a network interface coupled with a network to receive an increased network load comprising load portions for each of an increased plurality of connections with electronic network access devices [translation, paragraphs 0030 and 0032];

a power state selection system coupled with the network interface to receive at least a representation of the increased network load, to select a higher power state that consumes more power by comparing the representation with a predetermined threshold to determine that the representation is greater than the threshold, and to assert a power state selection signal that corresponds to the higher power state [translation, paragraphs 0027, 0034 and 0035];

a power state implementation system coupled with the power state selection system to receive the asserted power state selection signal and to assert a corresponding power state implementation signal [translation, paragraphs 0047-0056]; and

a power source coupled with the computer system to supply an increased amount of power to the computer system in the higher power state [translation, paragraphs 0047-00556].

Koji does not explicitly teach the system including a processor for controlling the switching of the power states. However, one of ordinary skill in the art would have readily recognized that a computer system would include a processor which obviously capable for controlling the system operation, including the switching of the power states.

7. Regarding claim 2, Koji does not explicitly teach the network load comprises load portion for an un-secured and a load portion for a secured load portion. However, one of ordinary skill in the art would have recognized that the power management system taught by Koji capable for operating on any type of connection, either a secured or an un-secured connection.

8. Regarding claim 3, Koji teaches that the power state selection system comprises a threshold that corresponding to a predetermined operational power state for the server [abstract].

One of ordinary skill in the art would recognize that the threshold value is obviously programmable depending on the capability of the system.

9. Regarding claims 6-8, the claims are directed to apparatuses implementing the power managing system of claim 4. As stated above, Koji teaches the invention substantially as set forth in claim 4. At the time of the invention, one of ordinary skill in the art would have readily recognized that Koji may also teach the implementations of claim 4 as set forth in claims 6-8. As such, claims 6-8 are rejected under same rationale with respect to claim 4.

10. Regarding claim 10, Koji teaches that the representation of the network processing load comprises an indication of a number of client connections (STB 10) [translation, paragraph 0030].

11. Regarding claim 11, Koji teaches that the representation of the network processing load comprises an indication of an activity of a processor (STB 10) [translation, paragraph 0030].

12. Regarding claim 12, Koji teaches that the system further comprising a logic to select by comparing the representation with a predetermined threshold [translation, paragraphs 0032-0034].

13. Regarding claims 17-19, the claims are directed to apparatuses implementing the power managing system of claim 16. As stated above, Koji teaches the invention substantially as set forth in claim 16. At the time of the invention, one of ordinary skill in the art would have readily recognized that Koji may also teach the implementations of claim 16 as set forth in claims 17-19. As such, claims 17-19 are rejected under same rationale with respect to claim 16.

14. Regarding claims 20-22, since they recite method of operating of the apparatus defined in the apparatus claims, they are rejected accordingly based on the rejection of the apparatus claims.

15. Regarding claims 23-25, Koji teaches the claimed method steps. Therefore, Koji teaches the instructions stored in a machine-readable medium for carrying out the claimed method steps.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (703) 308-6292. The examiner can normally be reached on Monday-Friday: 9:00 AM - 5:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703) 308-1159.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

The fax number for the organization is (703) 872-9306.



Thuan N. Du
August 20, 2004